

**CITY OF CENTRAL
CITY COUNCIL MEETING
September 1, 2015**

CALL TO ORDER

A regular meeting of the City Council for the City of Central was called to order by Mayor Engels at 6:00 p.m., in City Hall on September 1, 2015.

ROLL CALL

Present: Mayor Engels
Mayor *pro tem* Heider
Alderman Voorhies
Alderman Laratta

Absent: Alderman Gaines

Staff Present: City Manager Miera
City Clerk Bechtel
Attorney McAskin
Finance Director Adame
Public Works Director Hoover
Fire Chief Allen
Contract Planner/HPO Thompson

EXECUTIVE SESSION

Mayor *pro tem* Heider moved to go into Executive Session pursuant to C.R.S. 24-6-402(4)(e) for the purposes of developing strategies relative to matters that may be subject to negotiations; developing strategies for negotiations; and instructing negotiators regarding property located on Gregory Street in Central City and further move to reconvene the Council meeting at the conclusion of the executive session, for the purpose of continuing with the September 1, 2015 regular City Council meeting. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

At 7:00 p.m., Mayor Engels reconvened regular session.

The Pledge of Allegiance was recited by all present.

ADDITIONS AND/OR AMENDMENTS TO THE AGENDA

The agenda was approved as presented.

CONFLICTS OF INTEREST

No Council Member disclosed a conflict regarding any item on the agenda.

CONSENT AGENDA

Alderman Voorhies moved to approve the consent agenda containing the regular bill lists of August 6, 13, 20, 27; and the City Council minutes for the meetings on August 4, 2015. Mayor *pro tem* Heider seconded. Alderman Voorhies questioned the bill from Professional Management. City

Manager Miera explained that this consultant is working with our budget and audit numbers. When Mayor Engels called the question, the motion carried unanimously.

PUBLIC FORUM/AUDIENCE PARTICIPATION

No one requested time to address the Council.

LOCAL LICENSE AUTHORITY – (Central City Retail Marijuana Store Licensing Authority) Growhouse Central City LLC 171 Lawrence for a Retail Marijuana License

Mayor *pro tem* Heider moved to open the Local License Authority. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

Mayor Engels reviewed the information provided by staff as follows:

On August 4, 2015, Growhouse Central City LLC dba Growhouse Central City (“Applicant”) submitted to the City Clerk a complete application seeking a license for a new retail marijuana store for premises located at 171 Lawrence Street, Central City, CO 80427.

The Authority has reviewed the application, staff report, and other materials related to this application submitted by the City Clerk as well as evidence submitted at this meeting. City staff has reviewed the application and all related materials, completed its investigation of the application, and submits this report and all supporting evidence to the Central City Retail Marijuana Store Licensing Authority for review and approval/conditional approval/denial of the application in accordance with state and local law. Currently, the City’s retail marijuana store regulations require the Authority to approve, conditionally approve, or deny an application within thirty (30) days of receipt of a complete application. The City’s regulations also require the Authority to make a finding and determination as to the good moral character of the Applicant in accordance with standards set forth in state law. The staff report indicates that the Applicant has fulfilled all local requirements for a retail marijuana business license, with the exception of a determination concerning Applicant’s moral character.

Craig Clark, owner of Growhouse Central City responded to Council questions and explained that he also operates a store in Nederland which opened in August and one in Fraser that has been open since the first of the year. The company values compliance, a positive and educational atmosphere, and community involvement. Once the store is open, the company will have experienced staff on site to be sure all compliance is covered. Mike Swisher, Chief Operations Officer will open the store, then hire and train local employees. There will be a wide range of product so education to the public will be important. There is a plan to work with the community for fundraising and donation drives with local non-profits. Being the 5th retail marijuana store to open in Central City is not a concern as the company was careful to not over leverage on the building investment and this will allow them to build business and find a niche. The company does not own any cultivation centers and will purchase product from the wholesale market and will choose a wide range of product price points.

Police Officer Adler stated the City has no concerns regarding the background check which came back clear and a preliminary walk through shows they are under construction and will have a final walk through once security cameras are installed.

Mayor *pro tem* Heider expressed concern for having five retail marijuana stores in our small community. Mayor Engels noted that when we decided to allow retail marijuana, we were going to

let the market decide when it was saturated and we can consider discussing if we should consider a limit on number. Alderman Laratta added that another dispensary has expressed concern regarding the number.

Mayor Engels noted that based upon the information that the Applicant has provided to the City and City staff's investigation of Applicant and all relevant information it provided as reflected in the attached staff report, and subject to the Authority's findings concerning the moral character of Applicant and associated persons, staff recommends that City Council, sitting as the members of the Central City Retail Marijuana Store Licensing Authority conditionally approve Applicant's application to operate a retail marijuana store.

Alderman Voorhies moved to conditionally approve the application of Growhouse Central City LLC dba Growhouse Central City based upon the information presented in the staff report and other information brought forth at this meeting and to direct staff to prepare a Record of Decision on this application that incorporates the findings, conclusions, and all recommended conditions in the staff report, the Authority's finding as to the Applicant's moral character, and any other conditions imposed on the application. The Authority further directs staff to provide a copy of this decision within three (3) days of today's date to both the Applicant and the State of Colorado marijuana licensing authority by certified mail at the address shown in the application. Alderman Laratta seconded, and without discussion, the motion carried unanimously.

Alderman Voorhies moved to close the Local License Authority. Mayor *pro tem* Heider seconded, and without discussion, the motion carried unanimously.

SECOND READING AND PUBLIC HEARING

Ordinance No. 15-06: *An ordinance amending Article 6 of Chapter 6 of the City of Central Municipal Code regarding Entertainment Districts.*

Attorney McAskin gave the background as follows: Ordinance No. 15-06 proposes amendments to Article 6 of Chapter 6 of the Central Municipal Code concerning entertainment districts and the hours of operation of a common consumption area.

The amendment would remove the limitation currently set forth in Section 6-6-80(e)(6) which prohibits the consumption of alcoholic beverages in any common consumption area after 10 p.m. and would further amend the Municipal Code to allow a promotional association to request extended hours of operation between 2:00 a.m. and 7:00 a.m. as part of its application for designation as a common consumption area.

In addition, Section 6-6-70(b)(6) is amended to require a promotional association to specifically identify any portion of the common consumption area that is proposed to be located outside (out of doors) and to provide a detailed description of the promotional association's plan to comply with the maximum db(A) levels established in Section 7-2-210(a) of the Municipal Code ("Maximum Permissible Noise Levels").

City Council considered this topic at the July 21, 2015 work session and considered the Ordinance on first reading on August 4, 2015.

The proposed amendments to Article 6 of Chapter 6 of the Municipal Code as set forth in Ordinance No. 15-06 include the following:

- Amend Article 6 of Chapter 6 of the Municipal Code concerning entertainment districts by removing the current 10:00 p.m. limitation on hours of operation of a common consumption area.
- Amend Article 6 of Chapter 6 of the Municipal Code to allow a promotional association to request extended hours of operation between 2:00 a.m. and 7:00 a.m. as part of its application for designation as a common consumption area.
- Amend Article 6 of Chapter 6 of the Municipal Code concerning entertainment districts to require the applicant (a promotional association) to specifically identify any portion of the common consumption area that is proposed to be located outside (out of doors) and to provide a detailed description of the promotional association's plan to comply with the maximum db(A) levels established in Section 7-2-210(a) of the Municipal Code ("Maximum Permissible Noise Levels") The burden of proof for this requirement will be on the applicant.

C.R.S. § 12-47-301(11) authorizes the expanded consumption of alcohol within common areas located within designated entertainment districts that are established by local jurisdictions. Pursuant to Ordinance No. 12-06, the City Council established the Central City Entertainment District and authorized the licensing of designated common consumption areas. The City's Entertainment District regulations are codified in Article 6 of Chapter 6 of the Municipal Code.

In accordance with C.R.S. § 12-47-301(11)(f), a local licensing authority may set hours during which a common consumption area and attached licensed premises may serve alcohol. The Liquor Enforcement Division of the Colorado Department of Revenue, in consultation with the Colorado Attorney General's Office, issued Bulletin 14-01 dated October 1, 2014, which bulletin concludes that a local licensing authority has the authority to set hours of operation outside of the 2:00 a.m. to 7:00 a.m. restriction set forth in C.R.S. § 12-47-901(5)(b).

Mayor Engels opened the public hearing at 7:22 p.m. and invited comment. Joe Behm, CCBID Director, stated that feedback in Black Hawk has been favorable and would like to be allowed to use an outdoor space for the 2nd license. Mayor Engels closed the public hearing at 7:24 p.m.

Alderman Laratta moved to adopt Ordinance No. 15-06: An ordinance amending Article 6 of Chapter 6 of the City of Central Municipal Code regarding Entertainment Districts on first reading and set the Public Hearing for September 1, 2015 at 7:00 p.m. Mayor *pro tem* Heider seconded, and without discussion, the motion carried unanimously.

ACTION ITEMS: NEW BUSINESS

Appoint Alternate to Planning Commission

Mayor *pro tem* Heider moved to ratify the appointment by Mayor Engels of Ernie Van Deuchen to the Planning Commission as alternate. Alderman Voorhies seconded, and without discussion, the motion carried unanimously. Mayor Engels thanked Mr. Van Deuchen for his willingness to serve.

Central City Promise Program Request— Tyrus Schmalz

City Manager Miera gave the background as follows: the Central City Promise Program was initiated by City Council to encourage high school graduates and G.E.D. recipients of Central City to make post-secondary education a priority. The Promise Program helps make it possible for Central City residents to attend a university, community college or trade school by providing assistance with the costs associated with attending one of these educational institutions. Since 2006, eight different

students have utilized this program totaling \$73,025.28. if approved this application will bring the total to \$78,025.28.

The 2015 Budget has \$10,000 allocated for the Promise Program. This is the only formal request received-to-date for FY 2015. Granting the above request will leave a remaining balance of \$5,000.00.

Mr. Schmalz has submitted all of the required information and paperwork and is requesting Promise Program funds in the amount of \$5,000.00. Mr. Schmalz is continuing his post-secondary education at Colorado State University and has received previous Promise Program disbursements in 2013 and 2014 for a total of \$10,000.00. The Promise Program Guidelines limit the amount that an individual can receive to a total of \$20,000 or four (4) years of funding.

Mayor Engels added that previous Councils have carefully guarded this program through tough budget times and have felt it to be important to the community in support of our young people.

Alderman Voorhies moved to award Tyrus Schmalz with continuing post-secondary educational tuition assistance in the amount of \$5,000.00. Alderman Laratta seconded, and without discussion, the motion carried unanimously.

Resolution No. 15-17: *A resolution of the City Council of the City of Central, Colorado ratifying the City Manager's Conditional approval of the modified Revocable Access Permit for the Parkway Plaza LLC property.*

Contract Planner Thompson gave the background as follows: Parkway Plaza LLC (the "Applicant") is in the process of adding a gas station component to the existing Mountain Gateway center. The access to this property comes from the Central City Parkway, as was conditionally approved by the City in 2011 (pursuant to Resolution No. 11-13). Both the prior Resolution and the City's Parkway Access Code (Article VII of Chapter 8 of the Municipal Code) requires that a change in use or modification of the approved access requires additional review and approval of new access permit. All applicable application fees have been remitted to the City by the Applicant.

The Mountain Gateway Center is actually located in the City of Idaho Springs, but the access comes from the Central City Parkway. Idaho Springs has reviewed and approved the site plan and construction has begun on the site.

Site and Observations:

- The site plan can accommodate fuel delivery trucks as shown by the submitted site plan with a "turning template." The access point needs to be widened slightly to accommodate the proposed turning movement.
- The site contains an existing business.
- The proposed design minimizes the impact to the parkway, by making sure turning truck traffic will not be required to cross the yellow line into oncoming traffic when entering the Mountain Gateway Center site.
- The anticipated traffic increase as part of the proposed gas station is relatively minor (less than 10% increase)
- A traffic study was done when the site was originally constructed.
- Traffic on the parkway is less than was originally anticipated (has consistently been under 5000 cars per day).

- The addition of traffic associated with this use will not significantly impact the parkway.

Central City BID (District) Review:

As required by the terms of the Access Permit previously approved by the City in 2011 and in accordance with the City's Access Code, the Central City Business Improvement District reviewed the access permit request and use change on August 27, 2015. The District's recommendations have been incorporated into the conditions of approval on the modified access permit.

The City Manager is recommending conditional approval of the new access permit. In accordance with the Parkway Access Code, no access permit may be issued unless and until ratified by City Council.

Ed Smith, owner of Parkway Plaza, offered that they are working to be open within the next two months.

Mayor *pro tem* Heider noted that the cost for an access permit to the Parkway of \$300 seems low so we may want to revisit this fee.

Alderman Laratta moved to approve Resolution No. 15-17: A resolution of the City Council of the City of Central, Colorado ratifying the City Manager's Conditional approval of the modified Revocable Access Permit for the Parkway Plaza LLC property. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

Resolution No. 15-18: *A resolution of the City Council of the City of Central, Colorado awarding a BID for City Project No. 2015F-01 – Central city Parkway Flood Repair Project.*

Public Works Director Hoover explained that funding for these repairs comes from a FEMA Grant number 14-L4145-080 when Central City Parkway/US Highway 6 of Central City Colorado was affected by a flood incident from the period of September 11 through September 30, 2013 (FEMA Disaster Number 4145). An application to FEMA (Number PA-08-CO-4145-RPA-0309) was made for federal funding to repair Central City Parkway at five separate sites along the roadway which is approximately 8.4 miles long. Of the five sites, Site 4 has been repaired and is not to be considered in the scope of work.

Approval of this resolution will award the bid for the Project to ESCO Construction Co. (the successful bidder, hereinafter the "Contractor") in the not to exceed amount of Four Hundred Fourteen Thousand Two Hundred Fifty Five and 60/100 Dollars (\$414,255.60), based on the unit price(s) set forth in the Contractor's bid and the estimated work quantities associated with the Project.

David Vallejos, Senior Estimator for ESCO, added that ESCO has been in business in Evergreen since 1944 and as soon as the Award is approved, ESCO staff will meet with City staff to set the timelines to get this started.

Alderman Voorhies moved that Council recognized that one BID received was too high. Mayor *pro tem* Heider seconded, and without discussion, the motion carried unanimously.

Alderman Voorhies moved to approve Resolution No. 15-18: A resolution of the City Council of the City of Central, Colorado awarding a BID to ESCO for City Project No. 2015F-01 – Central

City Parkway Flood Repair Project. Mayor *pro tem* Heider seconded, and without discussion, the motion carried unanimously.

STAFF UPDATES

City Manager Miera responded to Council questions on the following:

Main Street Bootcamp – this was a good program that was attended last week by Barbara Thielemann, Mary Bell, Patrick Duffy and myself

Letter for payment of water meters – will go out in the October water bills with a cost sharing policy for Council to consider at the 9/15 meeting

Gaming check received – the state is behind in their financial reporting so we will have to wait until September/October to receive the remaining portion

COUNCIL COMMENTS

Alderman Voorhies commented that the meeting with the Black Hawk Council was productive and enjoyable and added that the Beerfest event was excellent. She asked staff to review our jake-break ordinance and see if signage may help. Some items to discuss in the retreat are historic preservation grants for residential, contract consultants, and Colorado Street.

Alderman Laratta noted that Main Street looks beautiful and improved with the sheets off the windows but the DO NOT ENTER sign is still up.

Mayor *pro tem* Heider noted that Main Street was alive on Saturday with the Mexican Fiesta hosted by Easy Street Casino.

Mayor Engels added that all the events have been very successful and concurred that the meeting with Black Hawk regarding a joint shuttle program was productive due to all the prior work that the two City Managers put in to make it happen.

PUBLICFORUM/AUDIENCEPARTICIPATION

Ed Smith, owner of the Parkway Plaza property, thanked Council for approval of the access permit and stated the intention is to market all the casinos in Central City and Black Hawk at that location.

The next Council meeting is scheduled for September 15, 2015 at 7:00 p.m.

Ronald E. Engels, Mayor

Reba Bechtel, City Clerk